



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Lowell Saltonstall Building,

100 Cambridge Street, Boston 02204

September 29, 1983

You inquire about the Massachusetts corporate excise and sales tax treatment of a contribution of a computer or other equipment by a corporation to an educational organization located in Massachusetts. The equipment, which is manufactured by the corporation, would be used for instructional and administrative purposes.

There is a corporate deduction, in addition to other allowable deductions under Chapter 63, equal to 25% of the deduction allowed under Section 170(e)(4) of the Internal Revenue Code ("Code") for "qualified research contributions" to educational organizations, as defined in that Section, located in Massachusetts. This deduction is effective for taxable years ending on or after December 31, 1983 and before December 31, 1985. (G.L. c. 63, § 38J).

Section 170(e)(4) of the Code provides for deduction of "qualified research contributions" by a corporation. To qualify under this provision the donated property must, inter alia, (1) be contributed to an educational organization which is an institution of higher education, (2) be constructed by the taxpayer, (3) be scientific equipment or apparatus substantially all the use of which is for research, experimentation, or research training, in the United States in physical or biological sciences, and (4) not be transferred by the donee in exchange for money, other property, or services. The taxpayer must receive from the donee a written statement representing that its use of the property will be in accordance with requirements (3) and (4).

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For purposes of that section "substantially all" means at least eighty per cent; "research training" means training of undergraduate or graduate students, either in a laboratory or in a classroom, in use of the equipment in research, or experiments conducted by such students, e.g., laboratory experiments as part of an undergraduate science course; "physical sciences" includes physics, chemistry, astronomy, mathematics and engineering; and "biological sciences" includes biology and medicine. (Committee Reports, Economic Recovery Tax Act of 1981, Act Sec. 222).

Section 2 of Chapter 64H imposes a tax on sales at retail of tangible personal property in the Commonwealth. A purchaser who gives a resale or exempt use certificate to a vendor and subsequently uses the property so purchased in a manner inconsistent with the tax exempt purchase is considered as having made a retail sale as of the time the property is first so used. (G.L. c. 64H, § 8(d), (h)). Section 6(jj) of Chapter 64H exempts from the sales tax sales of "scientific equipment or apparatus" within the meaning of Section 170(e)(4)(B)(v) of the Code when it is donated by the manufacturer to non-profit educational institution located in Massachusetts, to the Massachusetts Technology Park Corporation or to the Bay State Skills Corporation.

Based on the foregoing it is ruled:

1. A corporation which makes a donation of a computer or other scientific equipment which it manufactured to an educational organization may deduct an additional 25% of the allowable federal deduction for such contribution if the donee is located in Massachusetts and if the contribution meets all of the requirements of a "qualified research contribution" under Section 170(e)(4)(B) of the Code.

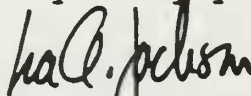
2. A donation of "scientific equipment or apparatus" within the meaning of Section 170(e)(4)(B)(v) of the Code is exempt from the Massachusetts sales and use tax when the equipment is donated by the manufacturer to a non-profit educational institution located in Massachusetts.

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3. Publicizing the donation will not affect the tax treatment of the transaction.

The 1983 corporate tax return and instructions will provide for the information to be furnished to claim the additional deduction for a qualified research contribution.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Wallace E. Johnson". The signature is written in a cursive style with a large, prominent "W" and "J".

Commissioner of Revenue

IAJ:MTD:mf

LR 83-85